

### REMARKS

Claims 1-3, 5-9, 14-18, 21, 22, 25, and 26 are pending.

All of the pending claims stand rejected under 35 U.S.C. § 103(a) as obvious over Boney '125 in combination with Grotten '583, as set forth in sections 3 and 4 of the Office Action.

As acknowledged in the Office Action, Boney '125 constitutes prior art to the present application under 35 U.S.C. § 102(e).

Applicant respectfully submits that Boney '125 is disqualified under 35 U.S.C. § 103(c) as prior art in a rejection made under § 103(a). The Boney '125 patent application was assigned to Kimberly-Clark Worldwide, Inc. by way of assignment from the inventors. This assignment was recorded on March 4, 2003, at Reel No. 013876 and Frame No. 0752. This is the only assignment of record with respect to the Boney '125 patent. The present application and the Boney '125 patent were, at the time the invention of the present application was made, owned by Kimberly-Clark Worldwide, Inc. At the time the invention of the present application was made, the inventors were subject to an obligation of assignment of the application to Kimberly-Clark Worldwide. An assignment of the present application to Kimberly-Clark Worldwide, Inc. from the inventors was recorded on March 15, 2004, at Reel No. 014426 and Frame No. 0544.

Accordingly, the Boney '125 patent is not a proper prior art reference in a § 103 obviousness rejection of the present application, and the § 103(a) rejection of the present claims over Boney '125 and Grotten '583 is moot.

The pending claims also stand rejected on the grounds of non-statutory obviousness-type double patenting over claims 1 through 13 of the Boney '125 patent in

view of Groten '583. Applicant respectfully traverses this obviousness-type double patenting rejection. As set forth in the Office Action, the obviousness-type double patenting rejection is premised on the assertion that it would have been obvious for one skilled in the art to substitute the mechanical deflector of Boney '125 with a pneumatic deflecting device as taught by Groten '583. However, if such a substitution were obvious and made by one skilled in the art, the resulting combination is still not in accordance with independent claims 1 and 14 of the present application.


The method of independent claim 1 includes the step of deflecting the fibers with a non-contacting deflecting device that comprises an air jet deflector providing discrete jets of air at a downward angle with respect to a horizontal plane and a sideward angle from a machine direction of the nonwoven web. The apparatus of independent claim 14 includes the same limitations. Substitution of the angled mechanical deflector of Boney '125 with a pneumatic air jet deflector having the same angular orientation does not result in an air jet deflector configured to provide discrete jets of air at a downward angle with respect to a horizontal plane. Thus, even with the combination proposed in the obviousness-type double patenting rejection, the resulting combination is missing a significant limitation of the independent claims. Accordingly, applicant respectfully requests reconsideration and withdrawal of the obviousness-type double patenting rejection.

With the present Amendment, applicant respectfully submits that all pending claims are allowable, and that the application is in condition for allowance. Favorable action thereon is respectfully requested. The Examiner is encouraged to contact the

undersigned at his convenience should he have any questions regarding this matter or require any additional information.

Respectfully submitted,

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